

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 651

(Chair, Economic Matters Committee)
(By Request - Departmental - Labor, Licensing and
Regulation)

Economic Matters

Labor and Employment - Shift Breaks

This departmental bill requires an employer to provide a nonworking shift break to each employee who works at least four consecutive hours, subject to specified criteria and some exceptions. Requirements do not apply to employers with fewer than 50 employees, units of government, persons licensed by specified State agencies, or employees who are otherwise covered under collective bargaining agreements.

Fiscal Summary

State Effect: The bill is not expected to materially affect State operations or finances.

Local Effect: Potential minimal increase in circuit court expenditures due to the bill's remediation provisions.

Small Business Effect: The Department of Labor, Licensing, and Regulation has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: An employee may not work between four and six consecutive hours without a nonworking shift break of at least 15 minutes. Likewise, an employee may not work more than six consecutive hours without a nonworking shift break of at least 30 minutes. If, however, an employee works six consecutive hours or less, the requirement to provide a nonworking shift break may be waived by mutual consent.

A required shift break may be considered a working shift break if the type of work prevents an employee from being relieved of his or her duties or the employee is allowed to consume a meal while working and the time is counted toward the employee's work hours. In either case, the employer and employee must agree in writing to this arrangement.

During a nonworking shift break, an employee must hold the employer harmless against any claim and indemnify the employer for any liability from the employee's actions during the shift break.

An employee may bring a civil action in circuit court against an employer who fails to comply with provisions for shift breaks. An employee who prevails in an enforcement action must be awarded reasonable attorney's fees and costs and is entitled to back pay and/or injunctive relief.

Nonworking shift break requirements do not apply to persons licensed by the Developmental Disabilities Administration, Mental Hygiene Administration, Department of Human Resources, or Department of Juvenile Services.

Current Law: The Fair Labor Standards Act does not require that breaks or meal periods be given to workers. However, when employers do offer short breaks (usually lasting 5 to 20 minutes), federal law considers the breaks as compensable work hours that are included in the sum of hours worked during the work week and considered in determining if overtime was worked.

The U.S. Department of Labor advises that bona fide meal periods (typically lasting at least 30 minutes) serve a different purpose than coffee or snack breaks and are not compensable work time. Federal regulations require that an employee be completely relieved from duty for the purposes of eating regular meals.

Maryland law does not specifically provide for a meal period for adults, but individuals younger than 18 may not be employed for more than five consecutive hours without a nonworking period of at least one-half hour.

Background: Nineteen states have established minimum length of meal requirements for adults. These requirements generally allow for a one half-hour meal period for employees who work a prescribed length of time. Several states require the meal period to be provided within a specific period of time during an employee's shift.

State Fiscal Effect: Although circuit courts are largely locally funded, portions of their operations, such as the cost of the clerks of the court, are State funded. Thus, the

Administrative Office of the Courts advises that a significant increase in circuit court filings can increase general fund expenditures.

The Department of Labor, Licensing, and Regulation advises that the bill does not provide administrative authority or enforcement responsibility to the Division of Labor and Industry. Thus, the bill does not materially affect the division's finances or operations.

Additional Information

Prior Introductions: A similar bill, HB 654 of 2008, was heard in the House Economic Matters Committee, but no action was taken on the bill. A similar bill was introduced in the 2007 session as HB 1058/SB 585. HB 1058 was withdrawn after its hearing; SB 585 received an unfavorable report from the Senate Finance Committee.

Cross File: None.

Information Source(s): Carroll and Harford counties; Department of Budget and Management; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2009
ncs/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Labor and Employment – Shift Breaks
BILL NUMBER: HB 651
PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.